

ment of the project, (1) less the amount by which the rents and revenues derived from the project up to and including the initial occupancy date exceeded the reasonable and proper expenses, as approved by the Secretary, incurred by the investor in, and necessary for, operating and maintaining said project up to and including the initial occupancy date, or (2) plus the amount by which such expenses exceeded such rents and revenues, as the case may be.

(e) "Physical completion date" shall mean the last day of the calendar month in which the Secretary determines that the construction of the project is substantially completed and substantially all of the dwellings therein are available for occupancy.

(f) "Initial occupancy date" shall mean the last day of the calendar month in which 90 per centum in number of the dwellings in the project on the physical completion date shall have been occupied, but shall in no event be later than the last day of the sixth calendar month next following the physical completion date.

(g) "Operating year" shall mean the period of twelve consecutive calendar months next following the initial occupancy date and each succeeding period of twelve consecutive calendar months, and the period of the first twelve consecutive calendar months next following the initial occupancy date shall be the first operating year.

(h) "Gross income" for any operating year shall mean the total rents and revenues and other income derived from, or in connection with, the project during such operating year.

(i) "Operating expenses" for any operating year shall mean the amounts, as approved by the Secretary, necessary to meet the reasonable and proper costs of, and to provide for, operating and maintaining the project, and to establish and maintain reasonable and proper reserves for repairs, maintenance, and replacements, and other necessary reserves during such operating year, and shall include necessary expenses for real estate taxes, special assessments, premium charges made pursuant to this subchapter, administrative expenses, the annual rental under any lease pursuant to which the real property comprising the site of the project is held by the investor, and insurance charges, together with such other expenses as the Secretary shall determine to be necessary for the proper operation and maintenance of the project, but shall not include income taxes.

(j) "Net income" for any operating year shall mean gross income remaining after the payment of the operating expenses.

(k) "Minimum annual amortization charge" shall mean an amount equal to 2 per centum of the established investment, except that, in the case of a project where the real property comprising the site thereof is held by the investor under a lease, if (notwithstanding the proviso of section 1747b(a) of this title) the gross income for any operating year shall be less than the amount required to pay the operating expenses (including the annual rental under such lease), the minimum annual amortization charge for such operating year shall mean an amount equal to 2 per centum of the established investment plus the amount of the annual rental under such

lease to the extent that the same is not paid from the gross income.

(l) "Annual return" for any operating year shall mean the net income remaining after the payment of the minimum annual amortization charge.

(m) "Insured annual return" shall have the meaning ascribed to it in section 1747 of this title.

(n) "Minimum annual return" for any operating year shall mean an amount equal to 3½ per centum of the outstanding investment for such operating year or such lesser amount as shall be agreed upon by the investor and the Secretary.

(o) "Excess earnings" for any operating year shall mean the net income derived from a project in excess of the minimum annual amortization charge and the minimum annual return and income taxes.

(p) "Outstanding investment" for any operating year shall mean the established investment, less an amount equal to (1) the aggregate of the minimum annual amortization charge for each preceding operating year, plus (2) the aggregate of the excess earnings, if any, during each preceding operating year applied, in addition to the minimum annual amortization charge, to amortization in accordance with the provisions of section 1747d of this title.

(q) "State" shall include the several States and Puerto Rico, the District of Columbia, Guam, and the Virgin Islands.

(June 27, 1934, ch. 847, title VII, §713, as added Aug. 10, 1948, ch. 832, title IV, §401, 62 Stat. 1281; amended Apr. 20, 1950, ch. 94, title I, §122, 64 Stat. 59; Sept. 1, 1951, ch. 378, title VI, §§610, 612, 65 Stat. 316; July 14, 1952, ch. 723, §10(a)(4), 66 Stat. 603; Pub. L. 86-70, §10(a), June 25, 1959, 73 Stat. 142; Pub. L. 86-624, §6, July 12, 1960, 74 Stat. 411; Pub. L. 90-19, §1(a)(3), May 25, 1967, 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a) to (e), (i), and (n).

1960—Subsec. (q). Pub. L. 86-624 struck out "Hawaii," before "Puerto Rico".

1959—Subsec. (q). Pub. L. 86-70 struck out "Alaska," before "Hawaii".

1952—Subsec. (q). Act July 14, 1952, added subsec. (q). 1951—Subsec. (n). Act Sept. 1, 1951, §610, inserted "or such lesser amount as shall be agreed upon by the investor and the Commissioner".

Subsec. (o). Act Sept. 1, 1951, §612, inserted "and income taxes".

1950—Act Apr. 20, 1950, substituted "Commissioner" for "Administrator" wherever appearing.

SUBCHAPTER VIII—ARMED SERVICES HOUSING MORTGAGE INSURANCE

AMENDMENTS

1955—Act Aug. 11, 1955, ch. 783, title IV, §401, 69 Stat. 646, substituted "ARMED SERVICES" for "MILITARY" and inserted "MORTGAGE" in subchapter heading.

§ 1748. Definitions

As used in this subchapter—

(a) The term "mortgage" means a first mortgage on real estate, in fee simple, or on a leasehold (1) under a lease for not less than ninety-

nine years which is renewable; or (2) under a lease for a period of not less than fifty years to run from the date the mortgage was executed; and the term “first mortgage” means such classes of first liens as are commonly given to secure advances on, or the unpaid purchase price of, real estate, under the laws of the State in which the real estate is located, together with the credit instruments, if any, secured thereby.

(b) The term “mortgagee” includes the original lender under a mortgage, and his successors and assigns approved by the Secretary; and the term “mortgagor” includes the original borrower under a mortgage, his successors and assigns.

(c) The term “maturity date” means the date on which the mortgage indebtedness would be extinguished if paid in accordance with periodic payments provided for in the mortgage.

(d) The term “housing accommodations” means housing designed for occupancy by military personnel and their dependents, assigned to duty at or near the military installation where such housing units are constructed.

(e) The term “personnel” shall include military and civilian personnel approved by the Secretary of Defense, or his designee, and the dependents of all such personnel.

(f) The term “military” includes Army, Navy, Marine Corps, Air Force, and Coast Guard.

(g) The term “State” includes the several States, and Puerto Rico, the District of Columbia, Guam, the Virgin Islands, the Canal Zone, and Midway Island.

(June 27, 1934, ch. 847, title VIII, § 801, as added Aug. 8, 1949, ch. 403, § 1, 63 Stat. 570; amended July 14, 1952, ch. 723, § 10(a)(2), 66 Stat. 603; Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 646; Aug. 7, 1956, ch. 1029, title V, § 501, 70 Stat. 1109; Pub. L. 86-70, § 10(a), June 25, 1959, 73 Stat. 142; Pub. L. 86-624, § 6, July 12, 1960, 74 Stat. 411; Pub. L. 90-19, § 1(a)(3), May 25, 1967, 81 Stat. 17.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (g), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1967—Subsec. (b). Pub. L. 90-19 substituted “Secretary” for “Commissioner”.

1960—Subsec. (g). Pub. L. 86-624 struck out “Hawaii,” before “Puerto Rico”.

1959—Subsec. (g). Pub. L. 86-70 struck out “Alaska,” before “Hawaii”.

1956—Subsec. (g). Act Aug. 7, 1956, inserted reference to Canal Zone and Midway Island.

1955—Act Aug. 11, 1955, inserted definitions of “housing accommodations” and “personnel” and included the Coast Guard in definition of “military”.

1952—Subsec. (f). Act July 14, 1952, inserted “Guam,” after “District of Columbia.”

SAVINGS PROVISION

Act Aug. 11, 1955, ch. 783, title IV, § 408, 69 Stat. 653, as amended by act Aug. 7, 1956, ch. 1029, title V, § 511, 70 Stat. 1110, provided that: “Notwithstanding the provisions of section 401 of this Act [amending this subchapter], the provisions of title VIII of the National Housing Act [this subchapter] in effect prior to the enactment of the Housing Amendments of 1955 [August 11, 1955] shall continue in full force and effect with respect to all mortgages insured pursuant to a certification by

the Secretary of Defense or his designee made on or before June 30, 1955, and a commitment to insure issued on or before June 30, 1956 or pursuant to a certification by the Atomic Energy Commission or its designee made on or before June 30, 1956, except that the maximum dollar amount for each such mortgage shall be \$12,500,000.] Nothing contained in the provisions of title VIII of the National Housing Act [this subchapter] in effect prior to August 11, 1955 or any related provision of law, shall be construed to exempt from State or local taxes or assessments the interest of a lessee from the Federal Government in or with respect to any property covered by a mortgage insured under such provisions of title VIII: *Provided*, That, no such taxes or assessments (not paid or encumbering such property or interest prior to June 15, 1956) on the interest of such lessee shall exceed the amount of taxes or assessments on other similar property of similar value, less such amount as the Secretary of Defense or his designee determines to be equal to (1) any payments made by the Federal Government to the local taxing or other public agencies involved with respect to such property, plus (2) such amount as may be appropriate for any expenditures made by the Federal Government or the lessee for the provision or maintenance of streets, sidewalks, curbs, gutters, sewers, lighting, snow removal or any other services or facilities which are customarily provided by the State, county, city, or other local taxing authority with respect to such other similar property: *And provided further*, That the provisions of this section shall not apply to properties leased pursuant to the provisions of section 805 of the National Housing Act [2 U.S.C. 1748d] as amended on or after August 11, 1955, which properties shall be exempt from State or local taxes or assessments.”

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

COAST GUARD

Subchapter as applicable to Coast Guard, see section 1594e of Title 42, The Public Health and Welfare.

§ 1748a. Repealed. Pub. L. 89-117, title XI, § 1108(aa), Aug. 10, 1965, 79 Stat. 507

Section, act June 27, 1934, ch. 847, title VIII, § 802, as added Aug. 8, 1949, ch. 403, § 1, 63 Stat. 571; amended Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 646, created the Armed Services Housing Insurance Fund.

For establishment of the General Insurance Fund, see section 1735c of this title.

§ 1748b. Insurance of mortgages

(a) Aggregate amount of insurance; termination date

In order to assist in relieving the acute shortage and urgent need for family housing which now exists at or in areas adjacent to military installations because of uncertainty as to the permanency of such installations and to increase the supply of necessary family housing accommodations for personnel at such installations, the Secretary is authorized, upon application of the mortgagee, to insure mortgages (including advances on such mortgages during construction) which are eligible for insurance as hereinafter provided, and, upon such terms as the Secretary may prescribe, to make commitments for